

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

MOREHOUSE ENTERPRISES, LLC,
D/B/A BRIDGE CITY ORDNANCE *et al.*,

Plaintiff,

v.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS
AND EXPLOSIVES *et al.*,

Defendants.

Case No. 3:22-cv-00116

**MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF OF
GUN OWNERS FOR SAFETY AND
INDIVIDUAL MEMBERS OF GUN OWNERS FOR SAFETY**

Gun Owners for Safety and three individual members of the organization respectfully move for leave to file an amici curiae brief in support of Defendants' opposition to Plaintiffs' motion for preliminary and/or permanent injunction. The proposed brief is attached as Exhibit A. Pursuant to LR 7.1(G)(1), counsel for the amici conferred with counsel for Plaintiffs and Defendants. Defendants do not oppose the filing of the brief and Plaintiffs take no position.

As set forth below, the amici curiae brief of Gun Owners for Safety and the individuals members brings important and different perspectives to the Court's attention that are not already discussed by the parties. Gun Owners for Safety and the three

individual members respectfully request that the Court grant this motion and accept the proposed amici curiae brief.

ARGUMENT

Proposed amicus curiae Gun Owners for Safety is a coalition of gun owners from all backgrounds and political affiliations who believe lives can be saved through commonsense gun laws that do not infringe upon the Second Amendment rights of law-abiding gun owners. The Gun Owners for Safety coalition has chapters across the United States and is affiliated with Giffords, the gun safety organization co-founded and led by Congresswoman Gabrielle Giffords, who is a gun owner herself. Gun Owners for Safety is committed to supporting gun violence prevention laws while respecting the Second Amendment.

The three individual members who are also proposed amici curiae are: Jason Perry, Deputy Engagement Director for Gun Owners for Safety; Jonathan Gold, a Senior Ambassador for Gun Owners for Safety in Michigan; and Scott Spreier, a Senior Ambassador for Gun Owners for Safety in Texas. All three are experienced gun owners who have worked as a firefighter, a firearm instructor, and a member of the Air Force, respectively, and each is passionate about the importance of the serialization of firearms as a key tool for law enforcement to fight crime and bring justice for victims of gun violence.

As law-abiding gun owners, the members of Gun Owners for Safety, including the three individual proposed amici, have a direct and substantial interest in the subject matter of this case—Alcohol, Tobacco, Firearms and Explosives (“ATF”) Final Rule 2021R-05F, entitled Definition of “Frame or Receiver” and Identification of Firearms (the “Rule”)—

and in Plaintiffs’ challenge to the Rule in its motion seeking a preliminary and/or permanent injunction. As important, Gun Owners for Safety and its individual members provide a unique perspective on the questions at the heart of Plaintiffs’ motion.

Specifically, the proposed brief offers an overview of the rich traditions of gun building in the United States and highlights the distinction between guns built from scratch and guns built from manufactured parts, including fully manufactured and partially manufactured parts. An accurate understanding of gun building in the United States is necessary to appreciating the scope of the Rule and properly addressing Plaintiffs’ challenge to it. Members of Gun Owners for Safety possess the highly specialized knowledge to provide this understanding. Gun Owners for Safety members, including two of the three individual amici, have built guns from scratch, and have also built guns from fully or partially manufactured components, knowing firsthand the relative ease with which guns can be assembled from a kit of fully or partially finished parts. The coalition can therefore offer invaluable context for the true impact of the Rule on those who build guns at home.

Although no Federal Rule of Civil Procedure governs the filing of an amicus brief in district court, it is well-established that amicus briefs can serve a useful role. As then-Judge Alito noted with respect to amicus briefs, “the fundamental assumption of our adversary system [is] that strong (but fair) advocacy on behalf of opposing views promotes sound decision making. Thus, an amicus who makes a strong but responsible presentation in support of a party can truly serve as the court’s friend.” *Neonatology Assocs. v. Comm’r of Internal Revenue*, 293 F.3d 128, 131 (3d Cir. 2002). “Even when a party is very well

represented, an amicus may provide important assistance to the court,” with contributions ranging from “collect[ing] background or factual references that merit judicial notice,” providing “particular expertise not possessed by any party to the case,” and “explain[ing] the impact a potential holding might have on an industry or other group.” *Id.* (quoting Luther T. Munford, *When Does the Curiae Need An Amicus?*, 1 J. App. Prac. & Process 279 (1999)). By providing a unique and relevant perspective as individuals whose activities relate to ATF regulations, who can explain precisely which activities may be affected by the Rule, and who can offer a perspective not often heard regarding gun owners not opposed to commonsense firearm regulation, the proposed brief of Gun Owners for Safety and the three individual members serves as a friend of the Court in its evaluation of Plaintiffs’ motion.

CONCLUSION

Gun Owners for Safety and the three individual members respectfully seek leave to file their proposed amici curiae brief.

Respectfully submitted, on August 15, 2022.

/s/ Lisa Beane_____

Lisa Beane

JONES DAY
90 South Seventh Street
Suite 4950
Minneapolis, MN 55402
Telephone: (612) 217-8800
Facsimile: (844) 345-3178

Barbara Mack Harding
Attorney-in-Charge
D.C. Bar No. 419250
(*pro hac vice* pending)

Jennifer L. Swize
D.C. Bar No. 490988
(*pro hac vice* pending)

Megan E. Ball
D.C. Bar No. 1708286
(*pro hac vice* pending)

Joseph J. Kiessling
D.C. Bar No. 1630477
(*pro hac vice* pending)

JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Angela A. Korge
Florida Bar No. 125419
(*pro hac vice* pending)

JONES DAY
600 Brickell Ave
Suite 3300
Miami, FL 33131
Telephone: (305) 714-9700
Facsimile: (305) 714-9799

Counsel for Amicus Curiae

CERTIFICATE OF CONFERENCE

Counsel for Amici Curiae sought conference via e-mail on August 12, 2022, with counsel for both Plaintiffs and Defendants. Defendants consent to the filing of the brief. Plaintiffs do not take a position.

/s/ Jennifer L. Swize
Jennifer L. Swize

CERTIFICATE OF SERVICE

I, Lisa Beane, hereby certify that on this 15th day of August, 2022, a true and correct copy of the foregoing document was transmitted using the CM/ECF system, which automatically sends notice and a copy of the filing to all counsel of record.

/s/ Lisa Beane
Lisa Beane